

### **REMARKS**

Claims 3, 5, 6, 13-20, 23, 25, 26, and 30-34 remain pending in the present application. Claim 24 is canceled pursuant to the objection issued by the Examiner in the outstanding Office Action. The amendment to claims 6 and 26 finds basis at paragraph [0037]; the amendment to claims 13 and 30 finds basis at paragraph [0075]; the amendment to claims 14 and 31 finds basis at paragraph [0058]; and the amendment to claims 15 and 32 finds basis at paragraphs [0066] and [0074]. No new matter is entered.

Entry of the accompanying amendments is requested under 37 C.F.R. 1.116, since the amendments place the claims into condition for allowance, as discussed below. In the alternative, entry is requested in order to place the claims into better form for consideration on appeal.

#### ***Priority Determination***

In the outstanding Office Action the Examiner reiterates the determination of the priority date of the present application as being May 8, 2003, thus dismissing the Declaration under 37 C.F.R. 1.132 of Robert L. Long (the Long Declaration) (Office Action, page 18).

Reconsideration of the priority date is respectfully requested in view of the amendments to independent claims 13 and 30, commensurate with the disclosure of the priority documents, Provisional Application No. 60/345,337 at page 17, lines 15-19; and U.S. Serial No. 10/492,442, paragraph [0072], page 17, bottom.

Likewise, reconsideration of the effect of the Long Declaration is requested.

#### ***Claim Objection***

The Examiner has objected to claim 24 as improperly dependent on claim 30. Applicants request withdrawal of the rejection in view of the accompanying amendment canceling claim 24.

***Declaration of Robert L. Long***

Applicants submit that the previously submitted Declaration under 37 C.F.R. 1.132 of Robert L. Long (the Long Declaration) demonstrates that since the subject matter of WO 01/09203 (Long et al.), as relied upon by the Examiner in the rejections below, is the work of the declarant, and was published less than one year from the effective filing date of the present application, the Long et al. reference is unavailable under 35 U.S.C. §102 and therefore under 35 U.S.C. §103 as prior art.

Claims 3-6, 13-20, 23-26, and 30-34 are rejected under **35 U.S.C. § 103(a)** as obvious over Long et al. (WO 01/09203) as evidenced by Geosoft (Geosoft Technical Note) in view of Chua et al. (Journal of Catalysis, 2000, v. 196, pp. 66-72), and further in view of Boyer et al. (Chemical Engineering Science, v. 54, 8/2002, pp. 3185-3215).

Applicants request withdrawal of the rejection in view of the Long Declaration submitted herewith, which removes Long et al. as a reference.

Additionally, Applicants traverse this rejection, since Long et al. fail to disclose or suggest acquiring a Raman spectrum of sample polymer particles suspended in gas and passing a stationary Raman probe, and Boyer et al. fail to disclose or even suggest measurements in a fluidized bed reactor whatsoever, as required by the independent claims, and is solely directed to gas-liquid and gas-liquid-solid reactors. One of skill in the art could not have derived an expectation of success in modifying a fluidized bed reactor in the manner of the present claims from a reading of Boyer et al.

Chua et al. disclose a novel “fluidized bed” technique for measuring UV Raman spectra of catalysts and adsorbates (abstract), but fail to disclose or suggest measuring the Raman spectra of polymers, and teach away from using visible or near infrared radiation (claims 15 and 32) in their process (page 70, right column, last two paragraphs, bridging to page 71). Chua et al. state “near-IR Raman spectroscopy has the lowest intrinsic sensitivity” (page 71, left column, third paragraph).

Chua et al. further indicate that the use of focused probes in fluidized bed analysis is impractical (page 70, left column, last paragraph, bridging to right column, first

paragraph), contrary to Applicants' claims of using imaging probes (claims 15 and 32), which are focused probes [0074]. Chua et al. fail to disclose or suggest how they successfully accomplished their fluidized bed analysis using an admittedly "impractical" focused probe and as such is non-enabling prior art.

Further, none of the cited references discloses or suggests collecting Raman spectra during polymerization of a polymer (claims 6 and 26). Long et al. disclose collecting Raman spectra on polypropylene granules held in a plastic bag (page 16, lines 5-7).

Reconsideration and withdrawal of the rejection is requested in view of the accompanying amendment.

Claims 3, 5, 6, 13-16, 23-25, and 30-34 are rejected on the grounds of **nonstatutory obviousness-type double patenting** over claims 3-8, 10-12, and 15-21 of U.S. Patent No. 7,116,414 in view of Long et al. (WO 01/09203 – "WO '203"), Chua et al., and Boyer et al. Applicants respectfully request reconsideration and withdrawal of the rejection in view of the accompanying amendment, and in view of their comments in traverse of the combination of Long et al., Chua et al., and Boyer et al., as set forth above.

In the alternative, Applicants will consider filing a terminal disclaimer over U.S. Patent No. 7,116,414 upon indication of allowable subject matter.

Claims 3-6, 13-16, 23-26, and 30-34 are rejected on the grounds of **nonstatutory obviousness-type double patenting** over claims 1, 3-6, 9, 13-16, 22-25, and 34-36 of U.S. Patent No. 7,106,437 in view of Long et al. (WO 01/09203 – "WO '203"), Chua et al., and Boyer et al. Applicants respectfully request reconsideration and withdrawal of the rejection in view of the accompanying amendment, and in view of their comments in traverse of the combination of Long et al., Chua et al., and Boyer et al., as set forth above.

In the alternative, Applicants will consider filing a terminal disclaimer over U.S. Patent No. 7,106,437 upon indication of allowable subject matter.

Applicants earnestly solicit a notice of allowance as to the present claims.

Applicants invite the Examiner to telephone the undersigned attorney, if there are any issues outstanding which have not been presented to the Examiner's satisfaction. If necessary to affect a timely response, this paper should be considered as a petition for Extension of Time sufficient to affect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712. (Atty. Docket No. 2001B101B)

Respectfully submitted,

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